IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4522 OF 2005
IN
CRIMINAL APPEAL NO. 605 OF 2005

Suryanath Jaileshwar Yadav ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

.....

Mr. Raja Thakre i/b Mr. R.N. Mishra, Advocate for Applicant

Mr. Kumar Tolani i/b M/s. Nankani & Associates, Advocate for Respondent No.2.

Mr. B.H. Mehta, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 22ND AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicant i.e. original accused, the learned A.P.P. for the State and the learned advocate for the respondent No.2 i.e. Ms. Vishnupriya Raman Iyyar who is the prosecutrix. Ms. Vishnupriya Iyyar is present before the Court.

2. The applicant is praying for bail and for staying the order granting compensation to Ms. Iyyar. The applicant has been mainly convicted under Section 376 and 498-A of I.P.C. The learned Sessions Judge while convicting the applicant directed to pay compensation

of Rs.2,00,000/- to the respondent No.2 i.e. the prosecutrix Ms. Vishnupriya Raman Iyyar within one month from the date of the order.

3. The learned advocate for the applicant states that the applicant was on bail during the pendency of the trial and he has not misused the liberty granted to him. There is no objection by the learned A.P.P. as well as learned advocate for the prosecutrix to bail being granted to the applicant provided that the applicant deposits amount of compensation and Ms. Iyyar is allowed to withdraw half the amount. It is an admitted fact that the present applicant got married to the prosecutrix. The factum of marriage has also been proved. Mr. Tolani, the learned advocate for Ms. Iyyar has stated that she has no income of her own and if the amount of compensation is not paid to her and the child, it would be impossible for her to maintain herself and the child. Mr. Tolani has further submitted that at least half the amount of compensation be directed to be handed over to Ms. Iyyar on urgent basis. Looking to these facts, I am not inclined to stay the order granting compensation.

4. The learned advocate for the applicant states that as the applicant has been in custody for some time, at present he does not have the amount of

Rs.2,00,000/- and he will deposit an amount of Rs.1,00,000/- within a week from his release from jail and some time may be granted to deposit the remaining amount of Rs.1,00,000/-. Mr. Thakre finally agreed that the remaining amount of Rs.1,00,000/- will be deposited by the applicant within six months from the date of earlier deposit of Rs.1,00,000/-. In view of this statement the applicant is directed to deposit Rs.1,00,000/- within one week of his release on bail. The remaining amount of Rs.1,00,000/- be deposited in three equal instalments and each instalment shall be deposited in this Court every two months starting from deposit of the initial amount of Rs.1,00,000/-.

5. Mr. Tolani, on instructions from the prosecutrix has submitted that the learned Sessions Judge has directed that the compensation amount shall be deposited before the registry of the Sessions Court and Rs.1,00,000/- out of the said amount shall be deposited in a Nationalised Bank in the name of the minor son i.e. Shriram Suryanath Yadav and monthly interest thereon shall be paid to the mother of the child i.e. the respondent No.2 herein Ms. Vishnupriya Iyyar, towards the expenses of bringing up the child. Mr. Tolani has prayed that instead of this it be directed that the entire amount of compensation shall be deposited before this Court as

per the schedule indicated above and the amount of Rs.1,00,000/- instead of being invested in a Nationalised Bank, the same be invested in postal savings on monthly interest basis and Ms. Iyyar be allowed to withdraw the interest towards expenses of bringing up the child. The said prayer being reasonable is granted.

6. In respect of initial amount of Rs.1,00,000/- Mr. Tolani prayed that on the amount of Rs.1,00,000/- being deposited by the applicant in this Court within a week from his release on bail, the respondent No.2 i.e. Ms. Iyyar shall be allowed to withdraw the said amount of Rs.1,00,000/- without furnishing any security.

7. Looking to the above facts and circumstances, I am inclined to grant bail to the applicant. The applicant Suryakant Jaileshwar Yadav to be released on bail in the sum of Rs.20,000/- with one or two sureties to make up the said amount. In the alternative the applicant is allowed to furnish cash deposit of Rs.20,000/- for a period of three weeks. It is clarified that within the said period of three weeks sureties shall be furnished. Cash bail for limited period is granted to the applicant so that he is released sooner and he deposits Rs.1,00,000/- within one week from the date of his release which

amount Ms. Iyyar is in dire need of. The applicant shall report to Matunga police station once in a month i.e. on the first Sunday of every month during the pendency of this appeal. Bail is granted on the further condition that the initial amount of Rs.1,00,000/- be deposited by the applicant before this Court within a week of his release on bail and the remaining amount of Rs.1,00,000/- is deposited as per schedule mentioned in para 3 of this order. Ms. Iyyar is allowed to withdraw the initial amount of Rs.1,00,000/- without security. In respect of the remaining amount of Rs.1,00,000/-, on each instalment being deposited it shall be invested in postal savings on monthly interest basis and Ms. Iyyar is allowed to withdraw the monthly interest thereon towards expenses of the child.

8. It is made clear that if there is any default in depositing the initial amount of Rs.1,00,000/- or any of the instalments of remaining amount of Rs.1,00,000/-, the bail granted to the applicant shall stands automatically cancelled and he shall be taken into custody.

*****